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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,913	01/29/2002	Shigeru Aihara	218298US0CONT	5015

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ALEXANDRIA, VA 22314

EXAMINER

TSANG FOSTER, SUSY N

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 07/03/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/057,913

Applicant(s)

AIHARA ET AL.

Examiner

Susy N Tsang-Foster

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,5-7 and 9-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-7 and 9-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statements filed on 1/29/2002 and 10/16/2002 have been considered by the Examiner.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 5, 7, and 9-11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Dasgupta et al. (US Pat. No. 5,512,389).

The lithium compound in the adhesive resin layer is the filler. See Figures 1a and 1b; abstract; col. 2, lines 48-50; col. 3, lines 5-30; col. 5, line 61 to col. 6, line 22; col. 10, lines 31-50 of Dasgupta et al ('389).

4. Claims 1, 2, 5, 7, and 9-11 and 13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Dasgupta et al. (5,498,489).

See Figures 1 and 2 and col. 6, lines 11-36 of the reference.

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5. Claims 1, 2, 5, 7, and 9-12 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Chen et al. (US Pat. No. 5,741,609).

See Figure 2; col. 1, lines 40-52; col. 3, lines 22-40, lines 63-67; col. 4, lines 9-57 of Chen et al. The filler is the electrolyte species dispersed in the adhesive material.

6. Claims 1, 2, 5-7, 9-12 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Hamano et al. (US Pat. No. 6,124,061).

See Figures 1, 5, 7, col. 1, lines 50-60; col. 3, lines 19-23; col. 6, lines 15-26; col. 9, lines 13-15, lines 35-40 of Hamano et al. The electrolyte salt is the filler.

7. Claims 1, 2, 5, 7, and 9-12, 15, 16, 19, 21-24 and 26 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Kawakami et al. (US 5,824,434).

See Figures 8, 9A-H and col. 23, lines 64-66; col. 24, lines 1-62; col. 27, lines 1-63 and col. 28, lines 1-12 of the reference.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dasgupta et al. (US Pat. No. 5,512,389) in view of Hamano et al. (US Pat. No. 6,124,061).

Dasgupta et al. disclose all the limitations of claim 12 except that the battery body is a laminate of a plurality of electrode bodies each composed of a single layer of positive electrode, a single layer of the separator, and a single layer of the negative electrode wherein the laminate is formed by interposing the positive electrode, the negative electrode alternately among a plurality of rolled separators.

Hamano et al. teach these missing features in Dasgupta et al. (see Figures 1 and 7 of Hamano et al.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have a plurality of electrode bodies wherein the separators are rolled because a plurality of electrode bodies would increase the cell voltage depending on the specific application's requirements and the choice of a cylindrical cell casing would dictate the use of rolled separators.

### ***Double Patenting***

10. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

11. Claims 1, 2, 5-7, and 9-26 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 6,387,565 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-23 of the patent are narrower in scope and anticipate all the limitations of claims 1, 2, 5-7, and 9-26 of the present case.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications should be directed to examiner Susy Tsang-Foster, Ph.D. whose telephone number is (703) 305-0588. The examiner can normally be reached on Monday through Thursday from 9:30 AM to 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached at (703) 308-2383. The phone number for the organization where this application or proceeding is assigned is (703) 305-5900.

The fax phone numbers for the organization where this application or proceeding is assigned is (703) 872-9310 for regular communications and (703) 872-9311 for After-Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

st/30 June 2003

A handwritten signature in cursive script that reads "Susy Tsang-Foster". The signature is written in dark ink and is positioned below the typed name of the examiner.